

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3073

IN THE MATTER OF:

Served September 23, 1987

Application of PHILIP J. PEARSON)
Trading as MILLING TOURS to)
Transfer Certificate No. 43 to)
KEITH JONES)

Case No. AP-87-17

By application filed July 13, 1987, Philip J. Pearson, a sole proprietor, trading as Milling Tours ("transferor"), seeks Commission approval to transfer his Certificate of Public Convenience and Necessity No. 43 to Keith Jones, a sole proprietor, trading as Custom Tours of Washington, D.C. ("transferee").

Certificate No. 43 contains the following authority:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers in sightseeing tours:

- (1) From motels and motor inns located at points on that part of U.S. Highway 1 south of junction U.S. Highway 1 and Interstate Highway 95 */ at or near Arlington, Va., and north of junction U.S. Highway 1 and Interstate Highway 95 at or near Woodbridge, Va., to points in the District of Columbia, and the City of Alexandria and Counties of Arlington and Fairfax, Va., and return.
- (2) From Holiday Inn, junction Interstate Highway 95 */ and Glebe Road, Arlington County, Va.; and Virginia Motel, 700 North Washington Street, Alexandria, Va.; to points in the District of Columbia and the City of Alexandria and Counties of Arlington and Fairfax, Va.; and return.

RESTRICTION: Restricted in (1) and (2) above to transportation performed in van-type vehicles and further restricted against transportation solely within the Commonwealth of Virginia.

*/ Interstate 95 inside the Capital Beltway has been renumbered Interstate 395, and any reissued certificate would be revised to reflect this change.

A public hearing was scheduled by Order No. 3053, served August 3, 1987, and that order is incorporated herein by reference. A review of the record in this case indicates that transferor duly notified the public of his pending application by publishing notice in the Washington Post on Thursday, August 6, 1987, and posting similar notice in his vehicles. No formal protests or requests to be heard were filed during the period established therefor.

On September 2, 1987, transferor sought waiver of the September 10, 1987, public hearing and requested that a decision be rendered based upon the extant record. Order No. 3065, served September 9, 1987, and incorporated herein by reference, cancelled the hearing and referred the motion to the Commission for decision. In the absence of protests, and given the nature of this application, we shall grant transferor's request. We now turn to the merits of the proposed transfer.

This matter comes before us under Title II, Article XII, Section 4(h) of the Compact which requires that the proposed transfer be approved by the Commission if it is consistent with the public interest.

We begin by noting that transferor has continued conducting its operations pending Commission determination of the transfer application; therefore, dormancy of the certificate is not an issue in this case. Transferee is a sole proprietor who has significant experience in the sightseeing business. He is currently employed by a large transportation carrier and has been a licensed tour guide for 20 years. Should this application be granted, transferee will provide the public a variety of sightseeing tour options in an operation which closely parallels the size of the transferor's current operations. A review of the record indicates that transferee's financial position is adequate to sustain operations pursuant to Certificate No. 43. His participation in this matter evidences a familiarity with and willingness to abide by the requirements of the Compact and the Commission's rules and regulations. We, therefore, find transferee fit to acquire Certificate No. 43. No discernible change in the market is anticipated as a result of transfer. Based on the above-examined considerations, we find the transfer to be consistent with the public interest.

We will change the highway designation as indicated in the footnote above. In addition, we will add to the "van-type vehicles" restriction the words "seating 15 persons or less, including the driver." The application calls for the sale of transferor's 15 passenger van to transferee, so the additional language comports with both past practice and future intentions. This language also comports with current Commission practice of making such restrictions more definitive. In addition, it is rooted in our insurance requirements (Commission Regulation No. 62) under which the liability requirement for an operation varies with vehicle size.

THEREFORE, IT IS ORDERED:

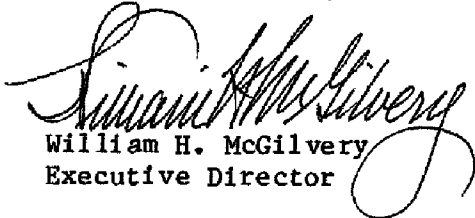
1. That the motion of Philip J. Pearson trading as Milling Tours to waive public hearing is hereby granted.

2. That the application of Philip J. Pearson trading as Milling Tours to transfer Certificate No. 43 is hereby conditionally granted, contingent upon timely compliance with the terms of this order.

3. That Keith Jones trading as Custom Tours of Washington, D.C. is hereby directed to file within 30 days of the service date of this order: (a) a list of equipment indicating make, model, serial number, license plate number, vehicle number, and ownership of all vehicles to be used in WMATC operations; (b) three copies of its WMATC Tariff No. 1; (c) a certificate of insurance in accordance with WMATC Regulation No. 62; (d) an affidavit that all vehicles have been identified in accordance with Commission Regulation No. 67, and (e) an affidavit that the contract has been consummated.

4. That upon compliance with the preceding paragraph Certificate No. 43 will be reissued to Keith Jones trading as Custom Tours of Washington, D.C.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director